

Exhibit 2

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF WEST VIRGINIA
HUNTINGTON DIVISION

Jonathan R., minor, by Next :
Friend, Sarah Dixon, et al., :
:
Plaintiffs, : Class Action
:
v. : 3:19-cv-00710
:
Jim Justice, in his official :
capacity as the Governor of :
West Virginia, et al., :
:
Defendants. :

VIDEOCONFERENCE DEPOSITION OF NISHA SACHDEV

DATE: October 26, 2020
TIME: 8:55 a.m. to 2:29 p.m.
LOCATION: Witness Location

REPORTED BY: Felicia A. Newland, CSR

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Washington, D.C. 20005

<p style="text-align: right;">Page 10</p> <p>1 Q What is it?</p> <p>2 A It's an operating foundation, which</p> <p>3 means that unlike many foundations that are</p> <p>4 grant-making, an operating foundation operates</p> <p>5 programs. So they fund and operate their own</p> <p>6 programs through partners in whichever area that</p> <p>7 their mission seeks to assist the public.</p> <p>8 Q And were you an employee of the</p> <p>9 foundation or a contractor?</p> <p>10 A I was an employee of the foundation.</p> <p>11 Q And were there any programs that</p> <p>12 Bainum operated or funded that you worked on that</p> <p>13 served children with disabilities?</p> <p>14 A Yes. So the School Mental Health</p> <p>15 Program, so let me start with the evaluation role.</p> <p>16 It was in the early childhood with Early Head</p> <p>17 Start, which incorporated all kids 0 to 3 that were</p> <p>18 receiving the services, many of which had</p> <p>19 disabilities.</p> <p>20 And then with the School Mental</p> <p>21 Health Program in the District, the four schools</p> <p>22 that we piloted, most -- many of the kids that had</p>	<p style="text-align: right;">Page 12</p> <p>1 public schools in the District, including what we</p> <p>2 used from the pilot. And it was supplemented with</p> <p>3 local dollars to roll that out to all schools.</p> <p>4 Q And you mentioned a school that</p> <p>5 serves foster children. What school was that?</p> <p>6 A Monument Academy.</p> <p>7 Q And did Monument serve exclusively</p> <p>8 foster children?</p> <p>9 A So it was set up to serve exclusively</p> <p>10 foster kids or children in the child welfare</p> <p>11 system, as they say; however, as the need in the</p> <p>12 community grew, it served more -- and as their</p> <p>13 enrollment was able to be increased, they served</p> <p>14 more students, but all students came in with some</p> <p>15 type of disability. It's a boarding program.</p> <p>16 Q Okay. So besides Monument, were</p> <p>17 there any schools involved in the School Mental</p> <p>18 Health Initiative that were residential programs?</p> <p>19 A No. Monument.</p> <p>20 MS. POST: Objection to the term</p> <p>21 "residential." Residential can mean different</p> <p>22 things in child welfare and perhaps that can be</p>
<p style="text-align: right;">Page 11</p> <p>1 disabilities, but specifically one school was</p> <p>2 serving all kids with social/emotional behavioral</p> <p>3 disorders, including a majority being foster youth</p> <p>4 or kids in the child welfare system.</p> <p>5 Q Okay. And then the -- so at Bainum,</p> <p>6 the Head Start program that you mentioned and then</p> <p>7 the School Mental Health Program you mentioned, any</p> <p>8 other programs that served children with</p> <p>9 disabilities at Bainum that you worked on?</p> <p>10 A So it was the Early Head Start, not</p> <p>11 Head Start. So Early Head Start --</p> <p>12 Q Oh, I'm sorry.</p> <p>13 A -- prior to three. And those were</p> <p>14 the two main programs. They did have some side</p> <p>15 funding and global programming they did, but the</p> <p>16 majority of my work were in those two areas.</p> <p>17 Q And the School Mental Health Program,</p> <p>18 was that program operated throughout District</p> <p>19 public schools or was it a pilot program?</p> <p>20 A So it started as a pilot program for</p> <p>21 D.C. program and funding with Bainum, and after a</p> <p>22 year, it scaled to all D.C. charter schools and</p>	<p style="text-align: right;">Page 13</p> <p>1 clarified.</p> <p>2 BY MR. PEISCH:</p> <p>3 Q Were there any programs where</p> <p>4 children served by the Mental Health Initiative --</p> <p>5 School Mental Health Initiative where services were</p> <p>6 delivered in settings in which the children lived?</p> <p>7 A So Monument was, they say,</p> <p>8 residential. As you know, there's broad terms. It</p> <p>9 was a school that the students would reside four</p> <p>10 days of the week to reserve family care. And the</p> <p>11 parents were heavily involved in the care.</p> <p>12 In the school, they were called care</p> <p>13 parents that lived with the children. And they</p> <p>14 would come on the weekends, so it was integrating</p> <p>15 with the families. And there was no other school</p> <p>16 other than that that had a program that was like</p> <p>17 that.</p> <p>18 Q And am I reading your resume</p> <p>19 correctly, that your work on the School Mental</p> <p>20 Health Initiative continued when you transitioned</p> <p>21 over to the Center for Health and Health Care in</p> <p>22 Schools at George Washington University?</p>

<p style="text-align: right;">Page 26</p> <p>1 Before your work on this case, had</p> <p>2 you ever read a CFSR?</p> <p>3 A I have not read a complete one, but I</p> <p>4 definitely have referred to them in understanding</p> <p>5 different communities and different services.</p> <p>6 Q What is your understanding -- well,</p> <p>7 let me back up a little bit.</p> <p>8 When you say you've referred to them,</p> <p>9 in what context have you referred to CFSRs?</p> <p>10 A When writing literature reviews</p> <p>11 and/or assisting and designing and implementing a</p> <p>12 program.</p> <p>13 Q What is your understanding of what it</p> <p>14 means when a CFSR reviews an item as a strength?</p> <p>15 A It means that in the majority of the</p> <p>16 cases, that it has been found that they are in</p> <p>17 conformity, so that's the strength. And they are</p> <p>18 following the federal and national guidelines.</p> <p>19 Q And what is your understanding of</p> <p>20 what it means when a CFSR reviews an item as needs</p> <p>21 improvement?</p> <p>22 A It's that they are not in full</p>	<p style="text-align: right;">Page 28</p> <p>1 You can answer.</p> <p>2 THE WITNESS: Could you clarify</p> <p>3 because policies can be very broad, like</p> <p>4 operational versus --</p> <p>5 BY MR. PEISCH:</p> <p>6 Q Sure.</p> <p>7 You mentioned in your answer to my</p> <p>8 question that it would depend on what area of child</p> <p>9 welfare, I think.</p> <p>10 A Yes.</p> <p>11 Q So I'm just trying to clarify, you</p> <p>12 wouldn't consider yourself an expert on all areas</p> <p>13 of child welfare policy and practice?</p> <p>14 A Yeah, I just want to make sure we're</p> <p>15 thinking of all in the same way, like operational</p> <p>16 or budgeting or data, system engineering design</p> <p>17 versus the actual programming and practice and</p> <p>18 ensuring the quality and the safety and welfare of</p> <p>19 the children, so I just want to clarify.</p> <p>20 Q Sure.</p> <p>21 Let me phrase it this way: What</p> <p>22 areas of child welfare would you consider yourself</p>
<p style="text-align: right;">Page 27</p> <p>1 conformity of that guideline and -- or whatever</p> <p>2 the -- the section is and that they need</p> <p>3 improvement in that area.</p> <p>4 Q And if a service-related CFSR item is</p> <p>5 rated as needs improvement, is it your</p> <p>6 understanding that that means no services were</p> <p>7 provided in the case reviewed -- the cases</p> <p>8 reviewed?</p> <p>9 A No. As I mentioned, it means that</p> <p>10 not all -- that there wasn't a majority.</p> <p>11 Q Do you consider yourself an expert on</p> <p>12 child welfare policy?</p> <p>13 MS. POST: Objection.</p> <p>14 You can answer.</p> <p>15 THE WITNESS: I'm not an expert on</p> <p>16 child welfare policy. I would say on child policy</p> <p>17 with child welfare included. It depends on the</p> <p>18 policies within child welfare.</p> <p>19 BY MR. PEISCH:</p> <p>20 Q So you wouldn't be an expert on all</p> <p>21 child welfare policies?</p> <p>22 MS. POST: Objection.</p>	<p style="text-align: right;">Page 29</p> <p>1 not to be an expert?</p> <p>2 MS. POST: Objection.</p> <p>3 You can answer.</p> <p>4 THE WITNESS: I guess in the</p> <p>5 operational section and the data system engineering</p> <p>6 and technology section. And with regard to those,</p> <p>7 the finances on the operational.</p> <p>8 BY MR. PEISCH:</p> <p>9 Q Okay. So let me dive into that a</p> <p>10 little bit. Before this case, had you ever</p> <p>11 studied -- I think I'm diving into the operational</p> <p>12 side.</p> <p>13 So before your work on this case, had</p> <p>14 you ever studied or analyzed child welfare</p> <p>15 caseworker practices?</p> <p>16 A So in the work that I've done, I have</p> <p>17 been trained on and have helped with these</p> <p>18 programming that I've discussed prior in ensuring</p> <p>19 that children's needs are met and if they have a</p> <p>20 caseworker, how to effectively utilize their</p> <p>21 caseworker.</p> <p>22 Q So in what professional or</p>

<p style="text-align: right;">Page 42</p> <p>1 groups.</p> <p>2 Q Have you ever written any articles</p> <p>3 about services provided to children in any</p> <p>4 congregate care settings?</p> <p>5 A Not specifically in a specific</p> <p>6 setting.</p> <p>7 Q Okay. Before your work on this case,</p> <p>8 did you have any experience studying or analyzing</p> <p>9 licensing requirements for congregate care</p> <p>10 facilities?</p> <p>11 A Like the -- can you explain what you</p> <p>12 mean by "licensing requirements"?</p> <p>13 MS. POST: I'm going to object to</p> <p>14 this question and ask that can't Counsel clarify</p> <p>15 whether he's speaking to federal or state specific,</p> <p>16 because states have different licensing standards.</p> <p>17 BY MR. PEISCH:</p> <p>18 Q Have you ever analyzed any licensing</p> <p>19 standards at all relating to congregate --</p> <p>20 governing congregate care facilities?</p> <p>21 A So do you mean like the way they're</p> <p>22 built and how many children can stay and their food</p>	<p style="text-align: right;">Page 44</p> <p>1 standards for congregate care facilities?</p> <p>2 MS. POST: Objection. Broad.</p> <p>3 Ambiguous. Again, state or federal? Counsel,</p> <p>4 please, if you could be specific.</p> <p>5 BY MR. PEISCH:</p> <p>6 Q I asked who.</p> <p>7 A Well, I guess that's where it's</p> <p>8 confusing because there's not just one -- it's not</p> <p>9 a one state -- it's not a one entity answer, so</p> <p>10 that's why I'm a little bit confused. I'm just</p> <p>11 asking in what context.</p> <p>12 Licensing goes across many different</p> <p>13 areas, so I'm just asking to clarify -- like, I</p> <p>14 don't know -- like, it includes, like, the</p> <p>15 Department of Public Works and different -- so I</p> <p>16 don't know their water main piping, that's part of</p> <p>17 licensing. So there's like a whole broad area. So</p> <p>18 if you mean the programming part or like -- that's</p> <p>19 why I'm asking, if you could just clarify, I could</p> <p>20 probably answer that.</p> <p>21 BY MR. PEISCH:</p> <p>22 Q Can you -- what is your understanding</p>
<p style="text-align: right;">Page 43</p> <p>1 and nutrition safety, like those standards?</p> <p>2 Q Well, what is your understanding of</p> <p>3 what the requirements -- of licensing requirements</p> <p>4 in congregate care facilities?</p> <p>5 MS. POST: Objection. Ambiguous. As</p> <p>6 previously, if Counsel could clarify as to which</p> <p>7 standard he's referring to, whether it's state or</p> <p>8 federal.</p> <p>9 MR. PEISCH: I would remind opposing</p> <p>10 Counsel that objections under Rule 30 need to be</p> <p>11 stated concisely and in a non-suggestive manner.</p> <p>12 MS. POST: Well, certainly, Counsel,</p> <p>13 I will keep that in mind. However, I understand</p> <p>14 you don't understand child welfare policy, and</p> <p>15 you're asking questions that are quite confusing.</p> <p>16 And if you could help clarify, that will certainly</p> <p>17 help the witness, I think, answer you.</p> <p>18 BY MR. PEISCH:</p> <p>19 Q Are congregate care facilities</p> <p>20 licensed?</p> <p>21 A They should be.</p> <p>22 Q Okay. And who creates the licensing</p>	<p style="text-align: right;">Page 45</p> <p>1 of what agencies create licensing standards for</p> <p>2 congregate care facilities? Can you --</p> <p>3 MS. POST: Objection. Broad and</p> <p>4 ambiguous.</p> <p>5 BY MR. PEISCH:</p> <p>6 Q You can't answer that question?</p> <p>7 A I'm not understanding the --</p> <p>8 MS. POST: Counsel, argumentative.</p> <p>9 Again, you're not asking questions that are</p> <p>10 specific to child welfare in the sense that the</p> <p>11 witness can answer. So to state that she's</p> <p>12 refusing to answer or that she is somehow not</p> <p>13 answering has really to do with your questioning,</p> <p>14 not with the witness. So please be specific.</p> <p>15 MR. PEISCH: I would again remind</p> <p>16 Counsel of Rule 30.</p> <p>17 BY MR. PEISCH:</p> <p>18 Q In D.C., do you know what agencies</p> <p>19 create licensing standards for congregate care</p> <p>20 facilities?</p> <p>21 A So the licensing -- creates a</p> <p>22 licensing standards or monitor?</p>

<p style="text-align: right;">Page 66</p> <p>1 Q And are those training materials</p> <p>2 listed in Appendix A?</p> <p>3 A Yes. And most of the training</p> <p>4 materials were -- that were provided were within</p> <p>5 one of, like, the West Virginia reports or plans.</p> <p>6 Like the CFPS plans and those. So there was, like,</p> <p>7 information. So there wasn't a specific separate</p> <p>8 training document that was provided, but that was</p> <p>9 included in their training method and the trainings</p> <p>10 were included in the document.</p> <p>11 Q Okay. So you didn't have available</p> <p>12 to you any of the DHHR training modules or</p> <p>13 PowerPoints?</p> <p>14 A There were some PowerPoints that had</p> <p>15 training, but it wasn't like the -- the entire,</p> <p>16 like, however many trainings. They didn't give the</p> <p>17 entire, because that would be -- I don't know how</p> <p>18 they would even do that. But that wasn't provided,</p> <p>19 but it was the -- the names and descriptions of the</p> <p>20 trainings were provided.</p> <p>21 Q Okay. And relatedly, did you review</p> <p>22 the DHHR training specific to caseworkers serving</p>	<p style="text-align: right;">Page 68</p> <p>1 A No.</p> <p>2 Q Did you review any template</p> <p>3 assessments that DHHR uses for children in foster</p> <p>4 care?</p> <p>5 MS. POST: Objection. Ambiguous.</p> <p>6 BY MR. PEISCH:</p> <p>7 Q Let me ask it this way: Did you</p> <p>8 review any, like, blank assessments?</p> <p>9 A Well, there's a lot of assessments,</p> <p>10 that's why I guess -- like, if you can be more</p> <p>11 specific to the -- there are -- as mentioned in the</p> <p>12 policies, there's different assessments at</p> <p>13 different periods that are -- the templates</p> <p>14 reference. I don't know exactly what you're</p> <p>15 referring to.</p> <p>16 Q Okay. Well, did you review -- okay,</p> <p>17 so let me just ask it this way: Did you review any</p> <p>18 assessment done by providers of children in DHHR</p> <p>19 custody?</p> <p>20 MS. POST: Objection. Ambiguous.</p> <p>21 Speculative.</p> <p>22</p>
<p style="text-align: right;">Page 67</p> <p>1 children with disabilities?</p> <p>2 A So like the PowerPoint, I don't know</p> <p>3 even if there is a PowerPoint, but they didn't give</p> <p>4 any materials directly to, like, a direct training</p> <p>5 curriculum or they didn't give any of those. There</p> <p>6 were two trainings that, I believe, are posted on</p> <p>7 the website that were available to caseworkers and</p> <p>8 to parents. And I can't recall exactly which</p> <p>9 training that was, but that was the only one that</p> <p>10 there were PowerPoints for.</p> <p>11 Q Is it your understanding that DHHR</p> <p>12 does not provide training to caseworkers specific</p> <p>13 to working with children with disabilities?</p> <p>14 A Yes. From the materials reviewed,</p> <p>15 including the interviews specific to children with</p> <p>16 disabilities. It's not a required training --</p> <p>17 required training.</p> <p>18 Q Did you review any of the case files</p> <p>19 of specific children?</p> <p>20 A No.</p> <p>21 Q Did you review any assessments of</p> <p>22 children in DHHR custody?</p>	<p style="text-align: right;">Page 69</p> <p>1 BY MR. PEISCH:</p> <p>2 Q So you don't know if you were --</p> <p>3 A I'm saying, for example, the medical</p> <p>4 assessment, which it has an acronym, like EP --</p> <p>5 it's an acronym, that template was there for each</p> <p>6 developmental stage. So, like, I'm just saying</p> <p>7 there's just different assessments for different</p> <p>8 periods --</p> <p>9 Q Okay.</p> <p>10 A -- so I don't -- I don't -- I'm just</p> <p>11 asking which one you're asking about.</p> <p>12 Q Okay. Let me -- but you didn't</p> <p>13 review any files of specific children?</p> <p>14 A No.</p> <p>15 Q Okay. Did you review DHHR's</p> <p>16 Memorandum of Understanding with the U.S.</p> <p>17 Department of Justice?</p> <p>18 A Yes.</p> <p>19 Q And did you review DHHR's</p> <p>20 Implementation Plan for that Memorandum of</p> <p>21 Understanding?</p> <p>22 A I believe so, but I don't know if</p>

<p style="text-align: right;">Page 70</p> <p>1 that's what it was called. But I remember the one</p> <p>2 with the most recent information from the</p> <p>3 Department of Justice that was provided -- or that</p> <p>4 was available.</p> <p>5 Q When you say that was provided or</p> <p>6 that was available, do you mean that was given to</p> <p>7 you by plaintiffs' counsel?</p> <p>8 A I believe that this was not given and</p> <p>9 it was -- and it wasn't given, but it was available</p> <p>10 on the DHHR website. I believe that's where I got</p> <p>11 it.</p> <p>12 Q And the implementation is what you're</p> <p>13 talking about?</p> <p>14 A Yes. So I know that they have --</p> <p>15 they have an open forum to review the MOU and the</p> <p>16 implementation with community stakeholders. And I</p> <p>17 think they were finalized early 2019, and then they</p> <p>18 were developing and -- oh, yes, they did develop an</p> <p>19 implementation plan.</p> <p>20 So there's a lot of implementation</p> <p>21 plans. That's why I am trying to suss out which</p> <p>22 one was specific to which. And so -- and from</p>	<p style="text-align: right;">Page 72</p> <p>1 expanding their array of community-based services</p> <p>2 for children with disabilities. And so working to</p> <p>3 understand what the services are needed and</p> <p>4 implement them essentially in a broad sense.</p> <p>5 Q And do you know who the target</p> <p>6 population for that Memorandum of Understanding is</p> <p>7 or what --</p> <p>8 A Children with disabilities.</p> <p>9 Q Any specific group within children</p> <p>10 with disabilities?</p> <p>11 A So I believe -- I didn't -- like I</p> <p>12 believe that it was generally around children with</p> <p>13 disabilities, and then there is the subgroup, like,</p> <p>14 really ensuring children with substance needs are</p> <p>15 provided that or intellectual disabilities are</p> <p>16 provided that.</p> <p>17 Is that what you mean by --</p> <p>18 Q Yes, that's what I meant.</p> <p>19 A Yeah. So it's really ensuring like</p> <p>20 within children with disabilities are receiving the</p> <p>21 community-based services they need.</p> <p>22 Q Okay. In your review of the DoJ</p>
<p style="text-align: right;">Page 71</p> <p>1 that, they developed an implementation plan. And</p> <p>2 then there was a period in which the implementation</p> <p>3 plan should be executed, which is like around now</p> <p>4 that this should start or a little bit before the</p> <p>5 start.</p> <p>6 Q And your recollection is that you did</p> <p>7 review that implementation plan?</p> <p>8 A Yes, my recollection is I did.</p> <p>9 Because there were a lot of implementation plans</p> <p>10 that -- and a lot of them had similarities that</p> <p>11 overlapped, so I was trying to look at them</p> <p>12 specific, but as in one implementation plan for the</p> <p>13 state.</p> <p>14 Q Did you review any of the University</p> <p>15 of Maryland School of Social Work's biannual</p> <p>16 reviews relating to the DoJ Memorandum of</p> <p>17 Understanding?</p> <p>18 A No.</p> <p>19 Q What is your understanding of what</p> <p>20 DHHR is currently doing pursuant to the DoJ MOU --</p> <p>21 the DOJ Memorandum of Understanding?</p> <p>22 A So mainly it's specifically around</p>	<p style="text-align: right;">Page 73</p> <p>1 Memorandum of Understanding documents, did you see</p> <p>2 that DHHR is required to ensure statewide access to</p> <p>3 therapeutic foster care?</p> <p>4 A Yes. I don't remember if it says</p> <p>5 treatment of foster care was therapeutic, I don't</p> <p>6 have --</p> <p>7 Q I mean --</p> <p>8 A I can -- and I didn't -- I didn't</p> <p>9 memorize it and so this is one that I would need to</p> <p>10 refer back to be sure that I am stating the correct</p> <p>11 thing. But I did review it in detail, I just</p> <p>12 didn't memorize it.</p> <p>13 Q Do you think that ensuring statewide</p> <p>14 access to therapeutic foster care will help address</p> <p>15 some -- would help address some of the concerns</p> <p>16 that you've identified in your expert report?</p> <p>17 A I don't have an opinion. I wasn't</p> <p>18 asked to review whether therapeutic foster care</p> <p>19 would.</p> <p>20 Q Okay. So do you have an opinion</p> <p>21 about whether the DoJ Memorandum of Understanding</p> <p>22 will address the concerns about -- the concerns</p>

<p style="text-align: right;">Page 74</p> <p>1 identified in your expert report?</p> <p>2 MS. POST: Objection. Calls for a</p> <p>3 legal conclusion.</p> <p>4 BY MR. PEISCH:</p> <p>5 Q Well, the DoJ MOU and the</p> <p>6 implementation plan called for DHHR to do a number</p> <p>7 of things. Do you have an opinion as to whether if</p> <p>8 DHHR does those things, it will address your</p> <p>9 concerns, the concerns that you've identified in</p> <p>10 your expert report?</p> <p>11 MS. POST: Objection.</p> <p>12 THE WITNESS: I -- I wasn't asked to</p> <p>13 come up with an implementation plan of DoJ.</p> <p>14 BY MR. PEISCH:</p> <p>15 Q Are you aware that the DoJ</p> <p>16 implementation plan calls for DHHR to implement</p> <p>17 certain community-based services for children with</p> <p>18 disabilities?</p> <p>19 A Yes.</p> <p>20 Q Do you know what those services are?</p> <p>21 A It's a variety of services, from</p> <p>22 screening to therapeutic services to support groups</p>	<p style="text-align: right;">Page 76</p> <p>1 think so. I don't remember the exact -- like every</p> <p>2 state has a different name, so I'm not sure if</p> <p>3 that's the name that they linked with or Medicaid</p> <p>4 or came up with those. Sorry. I don't know if</p> <p>5 that's the agency specifically.</p> <p>6 Q Did you review any Medicaid -- West</p> <p>7 Virginia Medicaid policies or manuals in developing</p> <p>8 your expert report?</p> <p>9 A No. That was out of the scope. I</p> <p>10 will say that I did -- there were around Medicaid,</p> <p>11 that's the only place it was reviewed, was in the</p> <p>12 recommendations and/or in some of the coordination</p> <p>13 material, but not specific.</p> <p>14 Q Okay. Given that it was outside the</p> <p>15 scope, do you -- is it fair to say that you don't</p> <p>16 have an understanding of what the package of</p> <p>17 Medicaid benefits are provided to foster children</p> <p>18 in West Virginia?</p> <p>19 A I -- from what was stated in the</p> <p>20 documents that were received, I have that</p> <p>21 understanding, but I did not explore specifically</p> <p>22 Medicaid reimbursement if the reimbursements are</p>
<p style="text-align: right;">Page 75</p> <p>1 to family in care, to case coordination. It</p> <p>2 depends. It's an array, I think they use the word.</p> <p>3 Q And do you think ensuring statewide</p> <p>4 access to those -- that array of services will help</p> <p>5 address the concerns that you've identified in your</p> <p>6 expert report?</p> <p>7 A Again, I don't have an opinion. I</p> <p>8 wasn't asked to provide a capacity building or</p> <p>9 technical assistance plan or implementation plan to</p> <p>10 the deficiencies.</p> <p>11 Q Okay. And do you know anything about</p> <p>12 the progress DHHR has made to date in implementing</p> <p>13 that DoJ Memorandum of Understanding?</p> <p>14 A So it's my understanding that the</p> <p>15 plan was put in place mid last year, and so -- and</p> <p>16 imposed for quite a while. So there hasn't been a</p> <p>17 formal -- as of August 11, a formal update that I</p> <p>18 am aware of.</p> <p>19 Q Okay. In your work on this expert</p> <p>20 report, did you become familiar with the Bureau for</p> <p>21 Medical Services within DHHR?</p> <p>22 A Bureau for Medical? I -- I don't</p>	<p style="text-align: right;">Page 77</p> <p>1 made, filing all of those insurance-type policies.</p> <p>2 Q Do you know if West Virginia Medicaid</p> <p>3 offers any community-based services to children</p> <p>4 with disabilities in foster care in West Virginia?</p> <p>5 A I don't know which specific ones, but</p> <p>6 I know that in the report, there was some</p> <p>7 discussion on how to have some of the service</p> <p>8 reimbursable, but the linkages needed to be -- and</p> <p>9 the coordination needs to be there, for Medicaid on</p> <p>10 that end.</p> <p>11 Q So you don't know the specific</p> <p>12 community-based services that West Virginia</p> <p>13 Medicaid provides to children -- foster children</p> <p>14 with disabilities?</p> <p>15 A Not in that array that we talked</p> <p>16 about. It -- they could call it something else. I</p> <p>17 don't know specifically.</p> <p>18 Q Okay. Do you know anything about the</p> <p>19 availability of Medicaid providers to serve</p> <p>20 children -- strike that.</p> <p>21 Do you know anything about the</p> <p>22 availability of providers of Medicaid</p>

<p style="text-align: right;">Page 78</p> <p>1 community-based services to serve foster children 2 in West Virginia?</p> <p>3 A No. That was out of the scope of 4 analyzing Medicaid and the pathways with Medicaid.</p> <p>5 Q Okay. Are you familiar with West 6 Virginia's HealthCheck Program?</p> <p>7 MS. POST: Objection. Outside the 8 scope.</p> <p>9 You can answer.</p> <p>10 THE WITNESS: So the -- my 11 understanding of the HealthCheck Program, again, it 12 was -- it was out of the scope of really analyzing 13 the HealthCheck Program, but that's the linkages on 14 how foster care children received their medical 15 examination.</p> <p>16 BY MR. PEISCH:</p> <p>17 Q Okay. And when you say outside the 18 scope, do you mean that you did not analyze the 19 extent to which Medicaid community-based services 20 are provided to West Virginia foster children? Is 21 that right? Am I understanding that right or am I 22 misunderstanding that?</p>	<p style="text-align: right;">Page 80</p> <p>1 Children and Families have a partnership -- or I 2 don't want to say partnership, but loosely, let's 3 say, collaborates with Medicaid, including TANF and 4 other kind of social services funding.</p> <p>5 And so that's an area that they're 6 working to strengthen, but they do have the 7 partnerships. So that's all I can really say to 8 that; meaning that there are -- because there is 9 some type of collaborations from funding, but I 10 again, that's a completely -- not completely, but 11 it's a different field to really analyze Medicaid 12 and reimbursements and funding streams.</p> <p>13 Q Okay. Are you familiar with the 14 Birth to Three Program in West Virginia?</p> <p>15 MS. POST: Objection. Outside the 16 scope.</p> <p>17 THE WITNESS: No.</p> <p>18 BY MR. PEISCH:</p> <p>19 Q I'm sorry, did you say no? I'm 20 sorry, I didn't hear.</p> <p>21 A Oh, sorry. So the Birth to Three 22 Program, where I am familiar, is in the context of</p>
<p style="text-align: right;">Page 79</p> <p>1 MS. POST: Objection. Misstatement. 2 BY MR. PEISCH:</p> <p>3 Q It's okay if I'm misunderstanding.</p> <p>4 A Yeah. I -- I -- again, so Medicaid 5 is a huge agency and so they don't necessarily 6 break down their reimbursements directly for foster 7 care. It's more, again, services, and so they 8 might -- you know, some states have partnership 9 with Medicaid for certain agencies. So when you 10 say that, it's difficult for me to answer because I 11 would have to review all of Medicaid's 12 reimbursements and then separate out which is 13 not -- was not available. And I don't know if this 14 is available to the children that are specifically 15 in the foster care, and so that's why I'm having 16 difficulty answering the question.</p> <p>17 Q Do you know -- do you know if West 18 Virginia foster care children are entitled to all 19 Medicaid benefits that other children in West 20 Virginia are entitled to?</p> <p>21 A Yes. And -- it's my understanding 22 from the documents reviewed, that the Bureau of</p>	<p style="text-align: right;">Page 81</p> <p>1 this report and how the BCF -- can we just say the 2 Bureau of Children and Families? I'm going to 3 refer to them as BCF.</p> <p>4 Q Yes, that's fine.</p> <p>5 A That will make it easier.</p> <p>6 It is linked with kind of their Birth 7 to Three policy. I did explore a little bit just 8 out of interest of the Birth to Three, but only as 9 it relates to specifically BCF.</p> <p>10 Q Okay. And what is your understanding 11 of the benefits that are provided in the Birth to 12 Three Program?</p> <p>13 MS. POST: Objection. Outside the 14 scope.</p> <p>15 THE WITNESS: Again, I didn't explore 16 specifically the Birth to Three policies, because 17 that wasn't what I was asked to do. So I don't 18 have an opinion on what the Birth to Three policy 19 is.</p> <p>20 BY MR. PEISCH:</p> <p>21 Q Are you familiar with the West 22 Virginia Medicaid Personal Care Services Benefit?</p>

<p style="text-align: right;">Page 82</p> <p>1 MS. POST: Objection. Outside the</p> <p>2 scope.</p> <p>3 BY MR. PEISCH:</p> <p>4 Q You can answer. Sorry.</p> <p>5 A Okay. So as I mentioned, I only -- I</p> <p>6 don't have an opinion on anything that wasn't</p> <p>7 related specific to the documents provided and</p> <p>8 Medicaid in relation to the report.</p> <p>9 Q So are you familiar with West</p> <p>10 Virginia Medicaid's Children With Serious Emotional</p> <p>11 Disorder Waiver?</p> <p>12 A I'm aware they're there. I don't</p> <p>13 know the intricacies of that, no.</p> <p>14 Q Do you know any of the benefits that</p> <p>15 are provided under that waiver program?</p> <p>16 A I have not memorized the benefits.</p> <p>17 But upon looking at it, I could give you a</p> <p>18 synopsis, but I don't want to speak out of the</p> <p>19 specific terminology.</p> <p>20 Q Did you review the waiver document</p> <p>21 for the Children With Serious Emotional Disorder</p> <p>22 Waivers?</p>	<p style="text-align: right;">Page 84</p> <p>1 policies governing the Children With Serious</p> <p>2 Emotional Disorder Waiver?</p> <p>3 MS. POST: Objection.</p> <p>4 You can answer if you understand.</p> <p>5 THE WITNESS: Okay. As I stated,</p> <p>6 around Medicaid and these waivers, I was not</p> <p>7 provided those documents, so there -- if it was</p> <p>8 mentioned in one of the documents review, I did a</p> <p>9 Google search, but I wasn't provided. And I did</p> <p>10 the Google search to make sure I was understanding</p> <p>11 specifically what it meant in relation to West</p> <p>12 Virginia. And so if it was mentioned, but it was</p> <p>13 not provided.</p> <p>14 BY MR. PEISCH:</p> <p>15 Q Did you review any DHHR policies</p> <p>16 relating to the Medicaid Individuals With</p> <p>17 Intellectual Disabilities Waiver?</p> <p>18 A I was not provided that.</p> <p>19 Q Are you -- were you aware that DHHR</p> <p>20 had a Medicaid waiver program for Children -- for</p> <p>21 Individuals With Intellectual Disabilities?</p> <p>22 A Yes. I believe upon a Google search</p>
<p style="text-align: right;">Page 83</p> <p>1 MS. POST: Objection. Outside the</p> <p>2 scope.</p> <p>3 THE WITNESS: I'm sorry?</p> <p>4 BY MR. PEISCH:</p> <p>5 Q Let me rephrase that. Did you</p> <p>6 review -- did you review the document -- the waiver</p> <p>7 document that outlines the services in the Children</p> <p>8 With Serious Emotional Disorder Waiver in producing</p> <p>9 that report?</p> <p>10 MS. POST: Objection. Outside the</p> <p>11 scope. Counsel, as you're well aware, you turned</p> <p>12 over the documents that were provided to --</p> <p>13 THE WITNESS: Yeah.</p> <p>14 MS. POST: -- to the witness.</p> <p>15 BY MR. PEISCH:</p> <p>16 Q Do you know what the waiver document</p> <p>17 is?</p> <p>18 When I say "waiver document," does</p> <p>19 that mean anything to you?</p> <p>20 A No, I did not receive a waiver</p> <p>21 document.</p> <p>22 Q Okay. And did you review any DHHR</p>	<p style="text-align: right;">Page 85</p> <p>1 around waivers for disabilities in West Virginia,</p> <p>2 that did come up. However, it was not provided and</p> <p>3 I did not know how to up to date the websites were,</p> <p>4 so they were not -- it was taken at face value.</p> <p>5 Q And do you know what services are</p> <p>6 provided through that Intellectual -- Individuals</p> <p>7 with Intellectual Disabilities Waiver Program?</p> <p>8 MS. POST: Objection.</p> <p>9 You can answer.</p> <p>10 THE WITNESS: Did you say to answer?</p> <p>11 I'm sorry, I couldn't hear that.</p> <p>12 MS. POST: You can answer.</p> <p>13 THE WITNESS: Okay.</p> <p>14 So, again, broadly speaking, I</p> <p>15 would have to look specifically at it again. It</p> <p>16 wasn't one of the in-depth documents reviewed</p> <p>17 because it wasn't provided. Therefore, it was a</p> <p>18 Google search just to make sure when I was</p> <p>19 referring to it or reading a sentence here and</p> <p>20 there that was provided, that I was understanding</p> <p>21 the context of West Virginia. So it wasn't</p> <p>22 studied extensively. And outside the scope of</p>

<p style="text-align: right;">Page 122</p> <p>1 And so -- and that's why I would need</p> <p>2 a minute to look up which exactly I -- when I look</p> <p>3 at the information, I look at it as a whole, and so</p> <p>4 I don't look at source, because they all are</p> <p>5 validated sources that were provided. And so</p> <p>6 that's why it's difficult for me to separate out</p> <p>7 which word from which.</p> <p>8 Q Okay. When you said the CFSP, do you</p> <p>9 mean the DHHR's 2015 to 2019 Child and Family</p> <p>10 Services Plan?</p> <p>11 A If that's -- yes, the Child and</p> <p>12 Family Services Plan.</p> <p>13 Q Okay. So do you recall what year the</p> <p>14 most recent CFSR was published?</p> <p>15 A 2017.</p> <p>16 Q And do you know what -- do you know</p> <p>17 what year's data and interviews those CFSR findings</p> <p>18 were based on?</p> <p>19 A It was based on -- so the CFSR was</p> <p>20 open from, I believe, 2015 to 2018, depending on</p> <p>21 what the state -- what cycle they fell in. And so</p> <p>22 that was -- I would have to see the exact month and</p>	<p style="text-align: right;">Page 124</p> <p>1 West Virginia to me, it was publicly available on a</p> <p>2 search.</p> <p>3 Q Okay. So going back to this sentence</p> <p>4 about DHHR faces a backlog of assessments.</p> <p>5 A Uh-huh.</p> <p>6 Q Do you agree that that conclusion is</p> <p>7 based on data that's at least several years old?</p> <p>8 A So it's not several years old.</p> <p>9 It's -- at this point, depending on -- what, in</p> <p>10 2017, like, two and a half to three years old, and</p> <p>11 that's not -- so that's still relevant. And, in</p> <p>12 addition, we have to be mindful that this has been</p> <p>13 a consistent problem every time there was an</p> <p>14 assessment.</p> <p>15 So where there's been improvement, it</p> <p>16 would have been noted in a report; however, it's</p> <p>17 been a consistent failure across all of the CFSRs</p> <p>18 and reports reviewed consistently that were up to</p> <p>19 what was provided by the State of West Virginia.</p> <p>20 Q But you don't actually know that this</p> <p>21 statement about backlog of assessments is true</p> <p>22 today in West Virginia, do you?</p>
<p style="text-align: right;">Page 123</p> <p>1 period that it was -- it was provided. I look at</p> <p>2 it as a fiscal year because we know they have</p> <p>3 reports written, so around that year.</p> <p>4 Q Okay. But no data in the CFSR --</p> <p>5 nothing in the CFSR was based on data after 2017.</p> <p>6 Is that right?</p> <p>7 A No; however, the -- the states did</p> <p>8 plan -- and I believe the state was maybe 2018, I</p> <p>9 mean, they do their own review -- case review also,</p> <p>10 and so I took into account all the relative data</p> <p>11 that was provided by the State of West Virginia I</p> <p>12 need to review. And so I used whatever the current</p> <p>13 information was that was provided.</p> <p>14 Q Okay. And the 2015 to 2019 CFSP,</p> <p>15 that was published in 2014. Is that right?</p> <p>16 A I would have to go look at the exact</p> <p>17 publication date. I -- I know it wasn't provided</p> <p>18 to me, but publicly available was the updated that</p> <p>19 was released in early, I think, 2020. And so for</p> <p>20 the CFSP, where information -- I utilized that to</p> <p>21 make sure that there was consistency on what was</p> <p>22 said in the past, that wasn't provided directly by</p>	<p style="text-align: right;">Page 125</p> <p>1 A I would have to review the -- again,</p> <p>2 this was stated by the information that was</p> <p>3 provided by the State of West Virginia to me,</p> <p>4 therefore, I'm unable to review anything that was</p> <p>5 not provided.</p> <p>6 Again, there has been consistent</p> <p>7 backlog since as early as the CFSR 2002, and so I</p> <p>8 just -- again, had there been improvement -- even</p> <p>9 if there was still a backlog and had there been</p> <p>10 improvement, it would have been noted. So,</p> <p>11 therefore, there consistently has been a backlog of</p> <p>12 assessments.</p> <p>13 Q Where would it have been noted?</p> <p>14 A In the -- in the reports that were</p> <p>15 reviewed. They'd note if there was an increase or</p> <p>16 changes in trends or -- it's just not a static year</p> <p>17 report.</p> <p>18 Q So for this sentence here, what I'm</p> <p>19 just trying to get at is, I understand -- well, I</p> <p>20 understand you were limited in what data you had to</p> <p>21 review, but this sentence here, "DHHR faces a</p> <p>22 backlog" -- I won't read the whole thing -- that is</p>